

# Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811

Phone 410-641-2770 Fax 410-641-2316

[www.berlinmd.gov](http://www.berlinmd.gov)



## Mayor

Wm. Gee Williams, II

## Vice President

Elroy Brittingham, Sr.

## Council Members

Dean Burrell, Sr.

Lisa Hall

Paula Lynch

Troy Purndel

## BERLIN, MARYLAND

## MAYOR AND COUNCIL MEETING

## Town Attorney

David Gaskill

**MONDAY, JUNE 13, 2011**

## Town Administrator

Anthony J. Carson, Jr.

**COUNCIL CHAMBERS – BERLIN TOWN HALL  
10 WILLIAM STREET  
BERLIN, MD 21811**

EXECUTIVE SESSION .....NONE SCHEDULED

REGULAR SESSION .....7:00 PM

*Anyone having questions about the meetings mentioned above or needing special accommodations should contact Tony Carson, Town Administrator at (410) 641-4144*

*TTY users dial 7-1-1 in the State of Maryland*

*TTY users outside Maryland dial 1-800-735-2258*

**BERLIN MAYOR AND COUNCIL  
COUNCIL MEETING  
AGENDA  
Monday, June 13, 2011**

**NO EXECUTIVE SESSION TO BE HELD**

**7:00 PM      REGULAR SESSION – Berlin Town Hall Council Chambers**

1.      Approval of the Minutes for:  
        Regular Session of the Mayor and Council on May 23, 2011
2.      Request for Special Event – Berlin Peach Festival  
        August 14, 2011: 12 noon to 6:00 p.m.
3.      Request for Special Event and waiver of fees– Leshell Fooks  
        Church Services at Henry Park on Friday evenings and Sunday mornings beginning  
        June 17<sup>th</sup> and June 20
4.      Motion to Authorize Mayor to Sign \$129,000.00 grant from DNR
5.      Motion to Authorize Paving Times for Main Street Project by State Highway  
        Administration.
6.      Motion to Authorize an Exception to Town Standards for Cottages at Berlin
7.      Motion to Approve – Text change for Allocation Agreement
8.      Motion to Approve – Induction Street Lighting Bid  
        Award Capital Tristate
9.      Motion to Approve – No Truck Traffic sign at intersection of Jefferson and Gay Streets  
        to Washington Street.
10.     Departmental Reports
  - a. Finance – Lynn Musgrave
  - b. Deputy Town Administrator – Mary Bohlen
  - c. Public Works – Mike Gibbons
  - d. Water Resources – Jane Kreiter
  - e. Electric – Tim Lawrence
  - f. Police – Arnold Downing
  - g. Planning and Zoning – Chuck Ward
  - h. Human Resources – Jeff Fleetwood
  - i. Economic and Community Development – Michael Day
11.     Town Administrator's Report
12.     Comments from the Mayor

13. Comments from the Council
14. Comments from the Public
15. Comments from the Press
16. Adjournment

MAYOR AND COUNCIL OF BERLIN, MARYLAND  
Regular Session Council Minutes  
Monday, May 23, 2011

The meeting of the Mayor and Council for Monday, May 23, 2011 was called to order by Mayor Williams at approximately 7:07 p.m. Council members Lynch, Purnell, Hall, Burrell and Brittingham were present, as well as Town Administrator Tony Carson, Electric Utility Director Tim Lawrence, Planning and Zoning Director Chuck Ward, Administrative Assistant Sharon Timmons, Human Resources Director Jeff Fleetwood, Economic and Community Development Director Michael Day, Finance Director Lynn Musgrave, Public Works Director Mike Gibbons, Town Attorney David Gaskill and Deputy Town Administrator Mary Bohlen. Water Resources Director Jane Kreiter was absent.

Following the recitation of the Lord's Prayer and the Pledge of Allegiance, Mayor Williams asked for approval of the Budget Work Session Minutes of April 4, 2011. Councilmember Lynch made a motion to approve the minutes and council voted unanimously to approve 5-0. Mayor Williams asked for approval of the Regular Session minutes of May 9, 2011. Vice President Brittingham made a motion to approve and council voted unanimously to approve 5-0. Mayor Williams asked for approval of the Executive Session minutes of May 9, 2011. Vice President Brittingham made a motion to approve and council voted unanimously to approve 5-0. Mayor Williams stated that the Executive Session was closed to discuss a personnel matter.

Economic and Community Development Director Michael Day and members of the Grow Berlin Green organization came before the Mayor and Council to present the Clean, Safe and Green Award from Main Street Maryland to the Town. This is a result of the Town's partnering with Grow Berlin Green.

An approval was requested for the special event known as View Trail Bike to be held on June 18, 2011 at Stephen Decatur Park. Mr. Chris Klebe, organizer of the event was not present. Administrative Assistant Sharon Timmons gave a brief summary of the event. Council members Hall and Purnell made a motion to approve the event and council voted unanimously to approve 5-0.

Teresa Fields, Executive Director from Worcester Youth and Family Counseling and Stephanie Gordy came before the council to give an update on the Youth Program in Berlin. Ms. Fields stated that the project committee had been established, program documents and forms to screen volunteers with background checks had been created and that 79 programs had been inventoried. They were in the process of establishing guidelines for volunteers and were awaiting word regarding grant applications. Ms. Gordy stated that a 2 week camp program would be established at the Isaiah Fasset complex in August and they would also be offering lunch and activities at the complex on Mondays and Wednesdays from June 13<sup>th</sup> through August. These programs would include music workshops, hip hop dance lessons and paper mache art. Councilmember Burrell inquired on the number of children to be served and Ms. Gordy stated that the number would be dependent on the number of volunteers and the ages served would be 8-14. Mayor Williams asked WFYC to speak with the apartment managers to assist with promoting and contacting families and Vice President Brittingham asked WFYC to contact the Boys Scouts and Worcester County Health department for ideas. Councilmember Burrell requested that WFYC return in July with an update and the number of children involved.

Mayor Williams announced the Public Hearing for Ordinance 2011-04, an ordinance amending Section 50-2 concerning outdoor burning permits. Mayor Williams opened the Public Hearing and asked for comments from persons from the State, County and Public. There being no comments, Mayor Williams closed the Public Hearing. Town Administrator Tony Carson handed out a new proposed burn permit

application to the council with incorporated concerns of notifications and the 30 day time limit. Discussion followed. Councilmember Burrell made a motion to approve Ordinance 2011-04 with the proposed burn permit application. Councilmember Lynch requested that council pass Ordinance 2011-04 first and then discussion the burn permit application. Councilmember Burrell amended his motion to approve Ordinance 2011-04 only and council voted unanimously to approve 5-0. Discussion continued on the permit and it was agreed by consensus to approve the application.

Mayor Williams announced the Public Hearing for Ordinance 2011-03, an ordinance establishing the FY12 Budget. Mayor Williams briefly summarized the budget. Mayor Williams opened the Public Hearing and asked for comments from persons from the State or the County. There being no comments, Mayor Williams asked for comments from the public. Ms. Diane Graham expressed her concern that with families facing foreclosures and struggling to pay utilities and taxes, that the contingency fund should be used for emergencies only with the exception of the police officers salaries and not used for employee salary increases. Debbie Ritz stated that as a teacher in the county, she had not received a raise in several years. Mayor Williams expressed that the Town had cut 2.8 million dollars in the last 2 budget cycles and that the Town was in sound financial condition. He continued stating that the Town should not be predicated by what the county or other communities and that the Town had not used a penny of last year's contingency fund. Town Administrator Tony Carson stated that the Town had already exceeded the projected revenues for FY11 by \$300,000 as of the end of April. Dee Calisto asked the Mayor to justify the reasoning behind the salary increases for staff since she had not seen any improvement in services. Mayor Williams emphasized that the departments were doing more services in house thus saving the Town money, that many of the department heads had been replaced and that the Town Administrator has been holding town employees to higher standards. He continued in stating that there would be no tax increases to the tax payers, but there had to be minor increases in the water and sewer rates, that trash pickup and trash cans had been extended to all residents including apartment complexes. Sue Beaman stated that the town citizens do not have the option to receive a raise and can't adjust their budgets accordingly and asked if the residents would be getting a tax refund. Mayor Williams stated that when the revenues start rolling again, that could become a realistic option. Ms. Calisto inquired if the taxes were going up and Mayor Williams stated that Town taxes had not been raised for three administrations and were not going to increase this year. If county taxes were to go up, it would be only if assessments went up. Councilmember Lynch stated that the attitude of staff used to be excuses given why it couldn't be done, now the attitude is how we can get it done. Councilmember Burrell stated that the council has asked the employees to do more with less and they have risen to the task.

Councilmember Hall stated that she had heard that people can't afford to live here and felt the Town should hold onto any excess funds because the future is uncertain. She commended staff, but stated she could not support the increase for staff. Councilmember Purnell stated that he sympathized with the residents, but the budget was in the best condition ever and he was in favor of the increase. Vice President Brittingham stated that he was in favor of the increase due to the employees doing such a good job. Councilmember Lynch asked Finance Director Lynn Musgrave if the total budget included the capital expenditures and if any changes had been made. Ms. Musgrave stated that all capital expenditures were included and no changes had been made. Mayor Williams closed the Public Hearing and Councilmember Burrell made a motion to approve Budget Ordinance 2011-03. Council voted in favor 4-1 with Councilmember Hall opposed.

Jeff Fleetwood, Human Resources Director asked for a motion to approve the FY12 renewal proposal for Worker's Compensation submitted by IWIF. Mr. Fleetwood stated that the estimated annual premium was \$133,573.00 to be paid over 10 monthly installments. Mr. Fleetwood stated the FY11 premium had been \$141,478.00 therefore the Town had a decrease for the new fiscal year. Vice President Brittingham made a motion to approve the IWIF renewal proposal and council voted unanimously to approve 5-0.

Departmental reports began with Finance Director Lynn Musgrave reporting on the success of the new on-line bill payment system and would report back in 3 months on the percentage of residents using the system.

Public Works Director Mike Gibbons reported that the concrete work and Verizon work on Flower Street had been completed, that the engineered wood fiber would be installed in the parks this week, that he would be attending a meeting with State Highway on the Main Street re-paving on May 31<sup>st</sup> and that the roof repairs on the Multipurpose Building would begin on May 31<sup>st</sup> and take approximately 2 weeks to complete.

Electric Utility Director Tim Lawrence reported that the testing of the generators at the Power Plant had gone well, the relay testing had been completed and the bad relay which was found had been replaced. He continued his report by reporting that the service to the microbrewery had been installed.

Police Chief Arnold Downing thanked the Mayor and Council for their support during the passing of his grandmother. He continued reporting that the last few Town events had been successful and the C-Safe grant had been completed. He explained that some exterior painting at PNC Bank would be taking place next week and that the areas of William and Bay Street may be closed for a brief period of time.

Planning and Zoning Director Chuck Ward reported that they were dealing with many letters and calls concerning property maintenance and that there had been an increase in permits for renovations throughout town and 2 new housing permits had been issued. Mr. Ward stated that he was working closely with the developer on the Broad Street and 119 N. Main Street projects. Councilmember Lynch requested a list of building permits and addresses for the last 2 years. She also inquired about the property located at the corner of Rt. 818 and Rt. 50. Mr. Ward stated that the property is in town and is registered as a business.

Human Resources Director Jeff Fleetwood reported that a new seasonal employee had started work with Public Works that day, interviews for 7 candidates for the Police department will take place on Tuesday and the Health Benefits Fair would take place May 24-26<sup>th</sup>.

Economic and Community Development Director Michael Day reported that the May Day Play Day and Cruisers events were very successful, the Chamber would be moving to their new office on June 2<sup>nd</sup> and that the Village Fair will not be taking place this year, but the Chamber will be sponsoring a Runaway Bride Scavenger Hunt, Fun Fashion Show and Trivia contest in conjunction with the 2<sup>nd</sup> Friday and the Bathtub races will take place on June 14<sup>th</sup>. Discussion continued on the billboard on Route 50 by Fort Whaley.

Town Administrator Tony Carson requested approval of 8 purchase orders (2011001945, 201101877, 2011001987, 2011001988, 2011002001, 2011001955, 2011002010 and 2011002019). Councilmember Hall made a motion to approve all 8 purchase orders and council voted unanimously to approve 5-0.

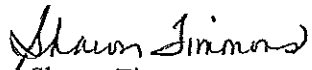
Mayor Williams asked for questions from the council. Councilmember Hall requested that the Town look into the possibility of a bike rack in town and at the park. She continued in stating that she had received calls concerning smoking at the town events and suggested that the Town designate smoking areas during events. She asked Electric Utility Director Tim Lawrence about the possibility of providing wireless internet in town. She inquired if the window issue at the Atlantic Hotel had been resolved and was informed it would be presented at the Historic District meeting in June.

Mayor Williams announced that the Town had been approved for 5 million dollars (3.5 in loans and 1.5 in grants) from MDE towards the Phase II Spray Irrigation Project.

Mayor Williams asked for questions from the council. There being no comments, Mayor Williams asked for comments from the public. No comments were made.

Mayor Williams asked for questions from the press, there being none, Councilmember Burrell made a motion to adjourn and the meeting ended at 9:05 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Sharon Timmons".

Sharon Timmons  
Administrative Assistant

**PROPOSED**

**ORDINANCE 2009- 02**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF BERLIN, A MUNICIPAL CORPORATION OF THE STATE OF MARYLAND AMENDING CHAPTER 102 OF THE TOWN CODE OF BERLIN, ENTITLED WATER BY ADDING SECTION 102-18 ENTITLED "WATER AND SEWER ALLOCATION; SPECIAL CONNECTION, CONNECTION AND READY TO SERVE CHARGES," TO PROVIDE FOR ADEQUATE WATER AND SEWAGE CAPACITY FOR THE COMMUNITY OF THE TOWN OF BERLIN.**

WHEREAS, the Mayor and Council of the Town of Berlin deem it is advisable to provide for adequate water and sewage capacity for the residents of the Town of Berlin and to allocate water and sewage capacity among current and future developments in a fair and equitable manner in its effort to maintain water and sewerage allocation availability to the community; and

WHEREAS, the Mayor and Council desire to modify provisions regarding, ready to serve charges, special connection charges and other related matters so as to assist the Town in paying for water and sewer facilities.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE MAYOR AND COUNCIL OF BERLIN, MARYLAND,** that Chapter 102, of the Town Code entitled "Water", be amended to add Section 102-18 entitled "Water and Sewer Allocations, " to read as follows:

**Chapter 102**

**WATER**

**SECTION 102-18**

**Water and Sewer Allocation; Special Connection, Connection And Ready to Serve Charges**

**CHAPTER 102-18.1. PURPOSE AND INTENT.**

- A. The Mayor and Council of the Town of Berlin ("Mayor and Council") find that temporary shortages of available capacity in water and sewer facilities may occur as a result of health, environmental, or financial considerations, as well as growth demands. The Mayor and Council have determined that in order to permit growth within the resources of the Town, it is necessary to establish a method by which available water and sewer capacity may be allocated and fees established to assist the Town in paying for water and sewer facilities.



- B. The Mayor and Council further find that an allocation procedure will help implement the comprehensive plan by ensuring that adequate public water and sewer facilities are available in a timely and well-planned manner. In addition, an allocation procedure will assist the Town in addressing the cost of providing needed public water and sewer capacity to ensure that Berlin remains a desirable place to work and live.
- C. It is the intent of the Mayor and Council that the provisions of this section shall accomplish the objectives stated in Sections A and B of this subsection and that a fair and equitable method of allocating available water and sewer capacity and creation of related fees are established.

#### **CHAPTER 102-18.2 DEFINITIONS.**

- A. **ALLOCATED READY TO SERVE CHARGE** - means a charge based upon the number of EDU's allocated to a lot and applied to all lots within the corporate Town limits that may or may not have water and/or sewer service available but for which an allocation has been approved pursuant to this Ordinance.
- B. **ALLOCATION** – means assignment of the number of EDU's required for a project and shall be based on a specific use and scope as indicated in the drawings and documentation submitted to the Town or one (1) EDU per existing lot.
- C. **APPLICATION** - means a request to the Town to reserve a water and sewer allocation made in the form required by the Town. The application shall clearly indicate the number of EDU's requested by the applicant and shall be simultaneously submitted with an application for either a building permit; site plan review; subdivision review, whichever is filed first after the effective date of this Ordinance.
- D. **CAPACITY MANAGEMENT PLAN** – means water and wastewater capacity plans prepared by the Town and submitted to the Maryland Department of the Environment pursuant to its published Guidelines.
- E. **EDU** – means an equivalent dwelling unit which is a measure where one unit is equivalent to the approximate amount of wastewater effluent generated from one home. An EDU is established to be 250 gallons per day (1EDU = 250 gallons of flow per day).
- F. **EXISTING SUBDIVISION** – means a parcel of land documented with a recorded plat having received final approval by the Berlin Planning Commission prior to December 31, 2008.
- G. **GRANDFATHERED READY TO SERVE CHARGE** – means a charge based upon the number of EDU's allocated to a lot and applied to all lots within the corporate Town limits which, as of December 31, 2008, have water and/or sewer service available but are not connected to the water or sewer system.

**H. GRANDFATHERED SPECIAL CONNECTION CHARGE** - a fee imposed upon applicants for New Service for lots subject to the Grandfathered Ready to Serve Charge to pay for:

1. portions of the Town's new and/or upgraded water and sewer system which are under design and construction by the Town as approved by an amendment to the 1994 Comprehensive Plan for Water and Sewage Systems, Worcester County, pursuant to Commissioner Resolution No. 07-36 adopted on December 18, 2007; and
2. portions of the Town's future water and those sewer facilities relating to effluent disposal.

The Town shall use Grandfathered Special Connection Charge revenues only for water and sewer capital and related financing activities.

**I. NEW SERVICE** -- means:

- (1) a first time connection of a property to the Town water or sewer systems; or
- (2) a new connection or increased water meter size for a property previously or currently served by the Town if the new connection or increased water meter size is needed because of a change in the use of the property or an increase in demand for service at the property.

**J. SPECIAL CONNECTION CHARGE** -- a fee imposed upon applicants for New Service to pay for:

- (1) portions of the Town's existing water and sewer system to be used by new connections;
- (2) portions of the Town's new and/or upgraded water and sewer system which are under design and construction by the Town as approved by an amendment to the 1994 Comprehensive Plan for Water and Sewage Systems, Worcester County, pursuant to County Commissioner Resolution No. 07-36 adopted on December 18, 2007; and
- (3) portions of the Town's future water and those sewer facilities relating to effluent disposal.

The Town shall use Special Connection Charge revenues only for water and sewer capital and related financing activities.

**K. WATER AND SEWER CONNECTION CHARGES** -- designed to recoup only the cost of making individual connections from the water and wastewater mains in the street to the property line of an abutting lot and are due and payable at the

time a request is made for service. In the case of New Service this fee is due and payable before a Certificate of Occupancy is issued.

#### **CHAPTER 102.18.3 APPLICABILITY.**

- A.** Allocations made under this Ordinance are subject to the availability of water and sewer capacity. The Town is not responsible for any contingency that affects the timing or ability to connect to the Town's water and sewer systems which is beyond the control of the Town.
- B.** This Ordinance shall be applicable to all lands within the corporate limits of the Town of Berlin.
- C.** Holders of an allocation who have been paying a Grandfathered Ready to Serve Charge for such allocation as of December 31, 2008 shall be exempt from Chapter 102.18.7. Duration of Allocation of this Policy.

#### **CHAPTER 102.18.4 CALCULATION OF EDU REQUIREMENTS.**

- A.** The water and sewer allocation for a single family residential unit shall require one EDU.
- B.** For non-residential units, the number of EDU's required for a project shall be based on the specific use and scope as determined and approved by the Town in accordance with the provisions of this Ordinance.
- C.** Unless otherwise provided for in this Ordinance, the calculation of the number of EDU's required for a project shall be based on the Guidance Document, titled "Wastewater Capacity Management Plans, 2006", published by the State of Maryland Department of the Environment as amended, ("Guidelines") attached as an Appendix to this Ordinance, and as amended from time to time by the Mayor and Council of Berlin, Maryland.
- D.** If a project or use is not adequately addressed in the Guidelines, the Town may consult its engineer or other technical resources, at the expense of the applicant, to estimate the required EDU's.
- E.** The Town may consider historical or representative data from similar projects of like use and scope in calculating the required EDU's for a project.
- F.** The calculation of the required EDU's shall result in whole numbers. If the division of total estimated flow by 250 gallons per day results in a fractional portion, the result shall be rounded to the next highest whole number.
- G.** The Town shall monitor water consumption as an indication of actual sewer flow to a non residential unit or project for a period of twenty-four months following completion of the entire project. If the flow exceeds the established EDU's allocated to the property, the owner of the non-residential unit or project will be

assessed additional Special Connection Charges or Grandfathered Special Connection Charges as appropriate to reflect the additional flow in excess of the previously allocated number of EDU's. Any fractional portion shall be rounded to the next highest whole number.

- H. The allocation for a pre-existing non-residential use shall be based upon the average use over the previous twenty-four (24) months of documented flow when such documented continuous flow history is available. Should such continuous flow history not be available, a determination using historical data for up to the prior ten (10) years shall be made. This documented historical data shall be available for subsequent use of the parcel provided:
- (1) the utility account has remained active with uninterrupted payments for at least minimum usage billing; and
  - (2) there has been no change to the approved uses including any increase to or enhancement of a previously approved use.
- I. In the event neither the prior twenty-four month flow nor historical data is available pursuant to Section 102.18.4 (H) above, the Town shall determine the allocation for a pre-existing non-residential use pursuant to above Sections 102.18.4. (B) through (G).

#### **CHAPTER 102.18.5 AUTHORITY.**

- A. Water and sewer capacity allocations shall be recommended by the Berlin Utilities Commission for approval by the Mayor and Council.

#### **CHAPTER 102.18.6 WATER AND SEWER ALLOCATION PROCESS.**

- A. The Capacity Management Plan and its amendments shall specify the general distribution of available sewer capacity available for allocation by the Mayor and Council. The Plan divides available capacity into use categories to be available over a given period of time. Allocations shall be available within a given category on a "first come-first served" basis, subject to the provisions of this Ordinance.
- B. The developer of any property shall submit to the Town an application for site plan or subdivision approval in accordance with Chapter 94 and Chapter 107 of the Town of Berlin Code; or an application for a building permit in accordance with Chapter 37 of the Town of Berlin Code.
- C. Simultaneously with submission of a site plan, subdivision or building permit application, whichever occurs first after the effective date of this Ordinance, the developer of any property shall also submit an application for a water and sewer allocation. The allocation application shall be referred to the Berlin Town Administrator and Director of Water Resources for review and recommended

recommended action to the Mayor and Council. The application for the required allocation shall include a 10% deposit of the prevailing water and sewer Special Connection Charge or Grandfathered Special Connection Charge based upon the total number of EDU's requested in the application. The deposit will be deducted from the Special Connection Charge or Grandfathered Special Connection Charge at such time as the proposed development seeks actual connection to the water and sewer system and pays the balance of the Special Connection Charge or the Grandfathered Special Connection Charge.

- D. If the Mayor and Council denies an application for water and sewer allocation, the 10% deposit will be refunded, except for a \$400 administrative fee plus any other additional expenses incurred by the Town in reviewing the application.
- E. No final plat of subdivision may be recorded unless:
  - (1) the Town has approved the application for water and sewer allocation and reserved adequate water and sewer capacity for the proposed development (only lots and portions of non-residential developments with an approved allocation may be recorded) subject to this Ordinance including, but not limited to, its forfeiture provisions; and
  - (2) an allocation agreement has been recorded where a certification of intended uses or Public Works Agreement has been executed.
- F. Once the allocation is approved and the plat of subdivision is recorded, all lots within the newly recorded subdivision shall be subject to the payment of the Allocated Ready to Serve Charge until the total Special Connection Charge or Grandfathered Special Connection Charge balance is paid.
- G. ~~For projects where there is no existing town water and sewer utility services in place,~~ no building permit may be issued unless the Special Connection Charge or Grandfathered Special Connection Charge balance (Connection Charge less the 10% deposit noted in Section C above), which shall be calculated using the prevailing rate at the time the application for allocation was filed less prior deposits, has been paid.
- H. ~~For projects where existing town water and sewer utility services are in place,~~ no Certificate of Occupancy or Zoning Certificate may be issued unless:
  - (1) the Town has inspected and improved all phases of construction; and
  - (2) the applicant has paid all monetary obligations to the Town of Berlin, including, but not limited to, the water and sewer connection charge.
- I. The Town shall maintain a report establishing the amount of water and sewer capacity available for allocation. This report shall account for any allocation made prior to the effective date of this Ordinance. The Town shall also maintain

a list of applicants for water and sewer allocations submitted after the effective date of this Ordinance, subject to the provisions of this Ordinance.

#### **CHAPTER 102.18.7 DURATION OF ALLOCATION.**

- A. Projects receiving final site plan or final subdivision approval after December 31, 2008 shall be subject to the following:
- (1) The owner shall apply for the allocations required for its project by submitting the application as provided in this Ordinance.
  - (2) The approved water and sewer allocation shall be considered reserved for as long as the Allocated Ready to Serve Charge is continuously paid. A three month arrearage shall be considered forfeiture of the allocation and the Town shall be entitled to recapture the sewer and water allocation granted for any lots that fail to pay the Allocated Ready to Serve Charge for three consecutive months unless otherwise approved by the Mayor and Council.
  - (3) Any allocation forfeited under this Ordinance shall revert back to the Town for future allocation.
  - (4) Forfeiture of the reserved allocation shall not warrant a refund of any Special Connection Charge or Grandfathered Special Connection Charge deposit.

#### **CHAPTER 102.18.8 ASSIGNABILITY OR TRANSFERABILITY OF WATER ALLOCATION.**

All Allocations established by the Town for any applicant either before or after the effective date of this Ordinance shall be for the property specified in the application or for which property the readiness to serve charge was paid and shall not be transferable to any other property, without the approval of the Mayor and Council.

#### **CHAPTER 102.18.9 EFFECT OF ZONING ACTION.**

The grant of a special exception, reclassification of property or other zoning action does not entitle a property owner to an allocation of water or sewer capacity for that property.

#### **CHAPTER 102.18.10 SPECIAL CONNECTION CHARGE AND GRANDFATHERED SPECIAL CONNECTION CHARGE ESTABLISHED.**

- A. The water and sewer Special Connection Charge and the water and sewer Grandfathered Special Connection Charge shall be established by the Mayor and Council and shall be based upon a per EDU basis.
- B. The water and sewer Special Connection Charge and the water and sewer Grandfathered Special Connection Charge shall be reviewed annually in order to provide adequate revenue for related capital expenditures.
- C. The water and sewer Special Connection Charge and the water and sewer Grandfathered Special Connection Charge established by the Mayor and Council shall continue until modified by the Mayor and Council.
- D. The Town shall deposit all funds collected under the Special Connection Charge and the water and sewer Grandfathered Special Connection Charge into the water and sewer funds to be used only for water and sewer capital and related financing activities.

#### **CHAPTER 102.18.11 MONITORING.**

- A. There will be a review of water and sewer capacity by the Berlin Utilities Commission that shall occur at least annually. The Mayor and Council may request certain data more frequently in its role as the approval authority.
- B. As part of the annual review, the Mayor and Council shall receive information on:
  - (1) Calendar year beginning and ending annual average daily flow;
  - (2) Total number of EDU's allocated during the year;
  - (3) Available capacity, as of the most recent year ending December 31<sup>st</sup>;
  - (4) Pending and approved projects which have not connected to the system; and
  - (5) Other information deemed properly plan for and allocate relevant to water and sewer capacity.

#### **CHAPTER 102.18.12 SEVERABILITY.**

Should any provision, section, paragraph or subparagraph of this section, including any code or text adopted hereby, be declared null and void, illegal, unconstitutional, or otherwise determined to be unenforceable by a court having competent jurisdiction, the same shall not affect the validity, legality, or enforceability of any other provision, section, paragraph or subparagraph hereof, including any code or text adopted hereby. Each other provision, section, paragraph or subparagraph is expressly declared to be and is deemed severable.

**CHAPTER 102.18.13 ADDITION TO CODE.**

It is the intention of the Mayor and Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances and the sections of this Ordinance may be renumbered to accomplish such intention.

**CHAPTER 102.18.14 EFFECTIVE DATE.**

This Ordinance shall take effect at the expiration of twenty (20) calendar days from the date of approval by the Mayor or the approval of the full body of the Council if vetoed by the Mayor.

This Ordinance was introduced and read at a meeting of the Town Council of the Town of Berlin, Maryland held on \_\_\_\_\_, and passed for second reading in accordance with \_\_\_\_\_ of the Charter of Berlin, Maryland, a statement of the substance of the Ordinance has been published in a newspaper or newspapers having general circulation in the Town of Berlin and posted by law. Thereafter, the Ordinance was finally passed by the Town Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2011.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2011

\_\_\_\_\_  
William G. Williams III, Mayor

\_\_\_\_\_  
Elroy Brittingham, Sr., Vice-President

ATTEST: \_\_\_\_\_  
Anthony J. Carson, Jr., MPA  
Town Administrator



**TOWN ADMINISTRATOR'S REPORT**  
**6-13-11**

**Purchase Orders**

PO# 2011002022 in the amount of \$1,055.00 to Crown Pointe Technologies for annual support and maintenance.

PO# 2011001967 in the amount of \$1,255.00 to Shelby Trucking for stone and dirt related to force main leak located at 8133 Libertytown Road.

PO# 2011002025 in the amount of \$1,382.94 to Afro American Newspaper for advertising for the LLDPE Geomembrane for lagoon liner, required to be advertised 3 times by USDA.

PO# 2011002077 in the amount of \$1,605.64 to Affordable Business System for 1 multifunction copier and cabinet stand for Water Resources department.

PO# 2011002133 in the amount of \$1,605.64 to Affordable Business System for 1 multipurpose copier and cabinet stand for Finance department.

PO# (to be assigned) in the amount of \$15,980.00 plus applicable fees to Pittsville Ford for 2011 Fusion SE for Economic and Community Development department. Monies to be taken from FY12 General Fund Capital.

PO# 2011002152 in the amount of \$34,992.00 to General Refrigeration for inspection, testing and re-insulation of cooling towers at Power Plant.

PO# 2011002208 in the amount of \$2,896.54 to Atlantic, Smith, Cropper and Deely for Pollution Liability Coverage. Monies to be taken from FY12 budget.

PO# 2011002204 in the amount of \$3,305.00 to Bunting & Murray for emergency repair work on the force main at Libertytown Road.

PO# 2011002191 in the amount of \$1,621.80 to Card's Computers for 1 Dell laptop, adapter and Microsoft Office 2010 software for electric department.

PO# (to be assigned) in the amount of \$1,742.00 to Card's Computers for Subscription License Upgrade for 26 town computers. Monies to be taken from FY12 General Fund.

PO# 2011002213 in the amount of \$1,125.00 to TJ/JH2B Analytical Services for annual oil testing of transformers at Savage Substation and Power Plant for Public Service Commission.

**Updates**